

Message Text

CONFIDENTIAL

PAGE 01 USUN N 02023 01 OF 02 241933Z

ACTION DLOS-09

INFO OCT-01 ISO-00 FEA-01 ACDA-07 AGRE-00 AID-05
CEA-01 CEQ-01 CG-00 CIAE-00 EPG-02 COME-00
DODE-00 DOTE-00 EB-07 EPA-01 ERDA-05 FMC-01
TRSE-00 H-01 INR-07 INT-05 IO-13 JUSE-00 L-03
NSAE-00 NSC-05 NSF-01 OES-07 OMB-01 PA-01 PM-04
PRS-01 SP-02 SS-15 USIA-06 AF-10 ARA-10 EA-07
EUR-12 NEA-10 /162 W

-----078991 242019Z /66

P 241829Z JUN 77

FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC PRIORITY 4191

C O N F I D E N T I A L SECTION 1 OF 2 USUN 2023

FROM: LOS DEL

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS: SIT REP FOR JUNE 22

1. COMMITTEE I. CHRIS PINTO (SRI LANKA) CONVENED A MEETING ALLEGEDLY AT THE REQUEST OF PRESIDENT AMERASINGHE TO DETERMINE WHETHER "AGREEMENT WOULD BE POSSIBLE " ON A COMMITTEE I TEXT. REPRESENTATIVES FROM TANZANIA, CANADA, USSR, FRG, PERU, INDIA, ALGERIA AND THE US (DARMAN AND SMITH) ATTENDED. AS REPORTED IN JUNE 21 SIT REP, PINTO MAY BE AMERASINGHE'S PRINCIPLE DRAFTER IN THE PRESIDENT'S CURRENT EFFORT TO PRODUCE A COMPOSITE TEXT.

2. PINTO RAISED ANUMBER OF QUESTIONS WHICH HE SAID WOULD NEED TO BE ADDRESSED IN ORDER TO ANSWER THE PRESIDENT'S REQUEST. HIS QUESTIONS DEALT WITH FUNDAMENTAL ASPECTS OF THE SYSTEM OF EXPLOITATION, RESOURCE POLICY AND REVIEW. FOR EXAMPLE, THE DEGREE OF AUTHORITY'S DISCRETION IN THE AWARDING OF MINING CONTRACTS, THE
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 USUN N 02023 01 OF 02 241933Z

DIVISION OF THE METALS MARKET BETWEEN SEA AND LAND PRODUCTION, TECHNOLOGY TRANSFER, FINANCING THE ENTERPRISE, FINANCIAL ARRANGEMENTS, AND HOW LONG TO MAINTAIN GUARANTEED ACCESS FOR STATE ENTITIES.

3. THE MEETING SUGGESTED THAT PINTO HAS IN MIND DRAFT-ING A NEW COMMITTEE I TEXT AND ESSENTIALLY SCRAPP-

ING EVENSEN'S WORK OVER THE PAST FOUR WEEKS. THE EFFECT OF THIS ACTION WOULD BE TO SERIOUSLY SET BACK THE EFFORTS OF INDUSTRIAL COUNTRIES AND DEVELOPING COUNTRY MODERATES TO MOVE OFF THE COMMITTEE I STALEMATE AND CLOSER TO A BALANCED ACCOMODATION OF INTERESTS. WE ARE URGING OTHER G-77 LEADERS TO SUPPORT US IN BRINGING THIS DANGEROUS PINTO PROCESS TO A HALT.

4. MEANWHILE, IT HAS BECOME APPARENT THAT THE G-77 IS MOVING TO PREVENT AMERASINGHE FROM ISSUING A CONSOLIDATED TEXT UNTIL THE END OF THE CONFERENCE AT THE EARLIEST, INSTEAD OF NEXT WEEK AS HE PLANS. COMMITTEE I CHAIRMAN ENGO IS, HIMSELF, WAIVERING ON THE QUESTION OF WHAT TO DO ABOUT THE REVISED EVENSEN TEXT - WHETHER TO INSERT IT UNCHANGED IN AMERASINGHE'S CONSOLIDATED DRAFT OR WHETHER TO ATTEMPT MAJOR REVISIONS OF HIS OWN.

5. IN THE COMMITTEE I WORK GROUP, EVENSEN CIRCULATED HIS SUGGESTED COMPROMISE FORMULATIONS OF ARTICLE 24 (ORGANS OF THE AUTHORITY), 25, 26 (ASSEMBLY), 27, 28 (COUNCIL). THIS INITIAL DRAFT FORMED THE BASIS OF DISCUSSION IN COMMITTEE I JUNE 22 (TEXT FORWARDED TO D/LOS). THE EVENSEN ARTICLES ACCEPT CERTAIN G-77 POSITIONS, SUCH AS RECOGNITION OF THE ASSEMBLY AS THE "SUPREME ORGAN OF THE AUTHORITY" (THIS FORMULATION APPEARS IN THE RSNT)
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 USUN N 02023 01 OF 02 241933Z

GRANTING THE ASSEMBLY POWER TO REVIEW RULES AND REGULATIONS CONCERNING CONTRACT PROCEDURES, AND BINDING THE COUNCIL TO ACT "IN STRICT ACCORDANCE WITH THE GENERAL POLICY LAID DOWN BY THE ASSEMBLY....." THE 36 MEMBER COUNCIL WOULD CONSIST OF 18 MEMBERS REPRESENTING SPECIAL INTERESTS (MINERS, LDC'S, PRODUCERS, CONSUMERS) AND 18 SELECTED ON THE BASIS OF EQUITABLE GEOGRAPHIC DISTRIBUTION. THIS FORMULA IS A COMPROMISE BETWEEN THE INDUSTRIAL COUNTRY PROPOSAL WHICH IS WEIGHTED IN FAVOR OF SPECIAL INTERESTS AND THE G-77 PROPOSAL, WHICH EMPHASIZES EQUITABLE GEOGRAPHIC DISTRIBUTION. DURING THE SINGLE SESSION JUNE 22, INDUSTRIAL AND DEVELOPING COUNTRIES INTERVENTIONS PURSUED WELL KNOWN POSITIONS ON THE ASSEMBLY/COUNCIL MACHINERY.

6. COMMITTEE III. FOLLOWING DILATORY TACTICS BY THE MARITIME STATES TO AVOID DISCUSSION OF COASTAL STATE STANDARD SETTING JURISDICTION FOR VESSELS IN THE TERRITORIAL SEA IN THE MORNING SESSION, THE US INTERVENED IN THE AFTERNOON MEETING OF COMMITTEE III TO INDICATE ITS DISPLEASURE WITH

THE STALLING TACTICS AND TO ASK THE CHAIRMAN TO PROVIDE A SPECIFIC SCHEDULE WHICH WILL ENSURE THAT ALL TOPICS OUTLINED IN THE INITIAL AGENDA ARE COVERED IN THE TIME REMAINING. IN RESPONSE, CHAIRMAN VALLARTA (MEXICO) INDICATED HIS INTENTION TO COMPLETE REVIEW OF ARTICLE 30 (COASTAL STATE ENFORCEMENT) TODAY (JUNE 22, 1977), ARTICLE 28 (PORT STATE ENFORCEMENT) TOMORROW (JUNE 23, 1977) INCLUDING A NIGHT SESSION, AND ARTICLE 21 (COASTAL STATE STANDARD SETTING) ON FRIDAY (JUNE 24, 1977).

7. THE REMAINDER OF THE AFTERNOON WAS DEVOTED TO A DISCUSSION OF SUBSTITUTE PROPOSALS FOR ARTICLE 30 (7) PUT FORTH BY THE CHAIRMAN AND NORWAY. THE CONFIDENTIAL

CONFIDENTIAL

PAGE 04 USUN N 02023 01 OF 02 241933Z

FORMULATION PROPOSED BY THE CHAIRMAN WOULD ALLOW A VESSEL TO PROCEED AND NOT BE ARRESTED IF BONDING OR CORRESPONDING FINANCIAL SECURITY ARRANGEMENTS HAVE BEEN ESTABLISHED BY IMCO OR BILATERAL AGREEMENT. A SIMILAR PROPOSAL BY NORWAY ENVISAGED BILATERAL AGREEMENTS WHICH REQUIRE THE FLAG STATE TO ENSURE COMPLIANCE BY VESSELS FLYING ITS FLAG WITH REQUIREMENTS FOR BONDING OR OTHER APPROPRIATE FINANCIAL SECURITY.

8. SHORTLY BEFORE THE CLOSE OF THE MEETING, THE CHAIRMAN ADVANCED THE FOLLOWING PROPOSAL WHICH WAS AIMED AT A CONSENSUS ON THE MOST ATTRACTIVE ASPECTS OF EACH EARLIER PROPOSAL:

NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH SIX, WHENEVER APPROPRIATE PROCEDURES HAVE BEEN ESTABLISHED, EITHER THROUGH THE COMPETENT INTERNATIONAL ORGANIZATION OR AS OTHERWISE AGREED, TO INSURE REQUIREMENTS FOR BONDING OR OTHER APPROPRIATE FINANCIAL SECURITY, THE COASTAL STATE SHALL ALLOW THE VESSEL TO PROCEED UPON THE IMPLEMENTATION OF SUCH PROCEDURES.

THE CHAIRMAN STATED THAT THE PHRASE "THE IMPLEMENTATION OF SUCH PROCEDURES" REFERRED TO THE POSTING OF A BOND OR OTHER APPROPRIATE FINANCIAL SECURITY.

CONFIDENTIAL

NNN

CONFIDENTIAL

PAGE 01 USUN N 02023 02 OF 02 241949Z
ACTION DLOS-09

INFO OCT-01 ISO-00 FEA-01 ACDA-07 AGRE-00 AID-05
CEA-01 CEQ-01 CG-00 CIAE-00 EPG-02 COME-00
DODE-00 DOTE-00 EB-07 EPA-01 ERDA-05 FMC-01
TRSE-00 H-01 INR-07 INT-05 IO-13 JUSE-00 L-03
NSAE-00 NSC-05 NSF-01 OES-07 OMB-01 PA-01 PM-04
PRS-01 SP-02 SS-15 USIA-06 AF-10 ARA-10 EA-07
EUR-12 NEA-10 /162 W

-----079161 242024Z /66

P 241529Z JUN 77

FM USMISSION USUN NEW YORK
TO SECSTATE WASHDC PRIORITY 4192

C O N F I D E N T I A L SECTION 2 OF 2 USUN 2023

FROM LOS DEL

9. IN THE SMALL CONSULTATIVE GROUP ON THE LEGAL STATUS OF THE ECONOMIC ZONE, PERU, SUPPORTED BY YUGOSLAVIA, ROMANIA, URUGUAY, AND TANZANIA, PROPOSED THAT THE GROUP REVIEW THE ARTICLES OF CHAPTER V (HIGH SEAS) IDENTIFYING THOSE APPLICABLE TO (1) THE EEZ; (2) THE HIGH SEAS AND (3) THE HIGH SEAS AND THE EEZ RESULTING IN THREE SEPARATE SECTIONS. (ART. 46-2 WOULD BE DELETED). CALLED UPON BY THE UK TO SUGGEST EXAMPLES OF WHAT HE HAD IN MIND, PERU SUGGESTED THAT ARTICLES 75 AND 76 WOULD APPLY ONLY TO THE HIGH SEAS, ARTICLE 77 WOULD "PERHAPS APPLY TO BOTH THE HIGH SEAS AND EEZ, " ARTICLE 79 WOULD APPLY EVERYWHERE, ARTICLE 80"IS A PROBLEM" AND ARTICLES 81 AND 82 WOULD APPLY EVERYWHERE. THE LISTING NOTABLY STOPPED SHORT OF ADDRESSING ARTICLE 83 (WARSHIP IMMUNITY). THE US, USSR AND THE UK OPPOSED PERU'S PROPOSITION. THE CHAIRMAN, AFTER NOTING THAT PERU'S PROPOSAL WAS OUTSIDE THE MANDATE OF THE GROUP, INDICATED THAT HE WOULD REFER THE MATTER TO THE CHAIRMAN OF THE SECOND COMMITTEE TOMORROW.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 USUN N 02023 02 OF 02 241949Z

10. THE GROUP THEN MOVED TO A PARAGRAPH BY PARAGRAPH DISCUSSION OF ARTICLE 44. URUGUAY ACCEPTED THE DELETION OF THE CONCEPT OF A ZONE OF NATIONAL JURISDICTION FROM ITS PROPOSAL REPORTED EARLIER. ZAMBIA AGAIN RAISED THE

MATTER OF REGIONAL AND SUBREGIONAL ECONOMIC ZONES, AND THE US SUPPORTED THE UK AMENDMENTS REPORTED EARLIER. PERU THEN SUGGESTED THE FOLLOWING AMENDMENTS TO ARTICLES 44, ALL OF THEM BEING CONTINGENT UPON ARTICLE 46(D) 75 REMAINING UNCHANGED. ARTICLE 44-1(C) (I) WOULD BE FOLDED INTO 44-1(A). 44-1(B) WOULD READ "JURISDICTION, IN ACCORDANCE WITH THE PROVISIONS OF THIS CONVENTION, WITH REGARD TO THE ESTABLISHMENT AND USE OF ARTIFICIAL ISLANDS, INSTALLATIONS AND STRUCTURES, SCIENTIFIC RESEARCH, AND THE PRESERVATION OF THE MARINE ENVIRONMENT, INCLUDING POLLUTION CONTROL AND ABATEMENT" (I.E., 44-1(C)(II) AND 44-1(D) FOLDED INTO 44-1(B), ALL BEING SUBJECT ONLY TO COASTAL STATE "JURISDICTION.") ARTICLE 44-1(E) WOULD REMAIN UNCHANGED. AUSTRALIA WELCOMED THE PERUVIAN PROPOSAL AND MEXICO INDICATED THAT IT COULD BE ACCEPTED AGAIN SUBJECT TO NOT AMENDING ARTICLE 75. URUGUAY COULD ACCEPT THE PROPOSAL EXCEPT THAT ARTICLE 44-1(E) SHOULD BE AMENDED TO READ "ALL OTHER RIGHTS COMPATIBLE WITH THE PRESENT CONVENTION." THE USSR WELCOMED THE PERUVIAN PROPOSAL, BUT INDICATED THAT IT COULD NOT ACCEPT THE CONDITION AS TO ARTICLE 75 ATTACHED.

11. COMMITTEE II:

THE FOCUS OF TODAY'S DISCUSSION IN CONSULTATIVE GROUP III (DELIMITATION) WAS A PROPOSAL ON ARTICLES 62 AND 71 PUT FORWARD BY LIBYA AND CO-SPONSORED BY THE CONFIDENTIAL

CONFIDENTIAL

PAGE 03 USUN N 02023 02 OF 02 241949Z

FOLLOWING DELEGATIONS: ALGERIA, FRANCE, IRAQ, IRELAND, MOROCCO, NICARAGUA, PAPUA NEW GUINEA, POLAND, ROMANIA, TURKEY AND BANGLADESH. THE PROPOSAL READS AS FOLLOWS:

BEGIN QUOTE:

ARTICLES 62/71:

1. THE DELIMITATION OF THE EXCLUSIVE ECONOMIC ZONE OR CONTINENTAL SHELF BETWEEN ADJACENT OR/AND OPPOSITE STATES SHALL BE EFFECTED BY AGREEMENT, IN ACCORDANCE WITH EQUITABLE PRINCIPLES TAKING INTO ACCOUNT ALL RELEVANT CIRCUMSTANCES, AND EMPLOYING ANY METHOD OR METHODS WHICH ARE APPROPRIATE AND WHICH LEAD TO AN EQUITABLE SOLUTION.

2. IF NO AGREEMENT CAN BE REACHED WITHIN A REASONABLE PERIOD OF TIME, THE STATES CONCERNED SHALL RESORT TO THE PROCEDURES FOR SETTLEMENT OF DISPUTES PROVIDED FOR IN PART IV, OR ANY OTHER PROCEDURES OF SETTLEMENT OF DISPUTE IN ACCORDANCE WITH ARTICLE 33 OF THE CHARTER OF THE UNITED NATIONS.

3. PENDING AGREEMENT OR SETTLEMENT, THE STATES CONCERNED SHALL MAKE PROVISIONAL ARRANGEMENTS, TAKING INTO ACCOUNT THE PROVISIONS OF PARAGRAPH 1, UNLESS THEY AGREE ON OTHER ALTERNATIVE INTERIM MEASURES.

4. WHERE THERE IS AN AGREEMENT IN FORCE BETWEEN THE STATES CONCERNED, QUESTIONS RELATING TO THE DELIMITATION OF THE EXCLUSIVE ECONOMIC ZONE OR CONTINENTAL SHELF SHALL BE DETERMINED IN ACCORDANCE WITH THE PROVISIONS OF THAT AGREEMENT

END QUOTE.

OPPOSITION TO THE PROPOSAL WAS REGISTERED BY GREECE, CANADA, UK, SPAIN, IRAN, CYPRUS, AND COLOMBIA. THESE DELEGATIONS STRONGLY VOICED THE VIEW THAT
CONFIDENTIAL

CONFIDENTIAL

PAGE 04 USUN N 02023 02 OF 02 241949Z

THE PROPOSAL REPRESENTED NO COMPROMISE AT ALL, ESPECIALLY, BUT NOT ONLY, BECAUSE IT ABOLISHES ALL REFERENCE TO THE PRINCIPLE OF EQUIDISTANCE/MEDIAN LINE AS A METHOD OF MARITIME DELIMITATION. THE SOVIET UNION, WHILE RESERVING ITS POSITION, EXPRESSED ITS TENTATIVE SUPPORT FOR THE COMPROMISE TEXT.

THE TURKISH AMENDMENT READS AS FOLLOWS: BEGIN QUOTE: ADD TO THE END OF ARTICLE 62, PARAGRAPH 1 AND ARTICLE 71, PARAGRAPH 1, THE FOLLOWING: SUCH AS THE GENERAL CONFIGURATION OF THE RESPECTIVE COASTS, AND THE EXISTENCE OF ISLANDS, ISLETS OR ROCKS WITHIN THE AREA TO BE DELIMITED. END QUOTE.

YOUNG

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW OF THE SEA, TEXT, AGREEMENT DRAFT, COMMITTEE MEETINGS, MEETING REPORTS
Control Number: n/a
Copy: SINGLE
Sent Date: 24-Jun-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977USUNN02023
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D770227-0201
Format: TEL
From: USUN NEW YORK
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770619/aaaaaqia.tel
Line Count: 313
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 8cdc7e76-c288-dd11-92da-001cc4696bcc
Office: ACTION DLOS
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 29-Mar-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2033347
Secure: OPEN
Status: NATIVE
Subject: LOS: SIT REP FOR JUNE 22
TAGS: PLOS, XX, LOS, (EVENSEN, JENS)
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/8cdc7e76-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009